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Secta. II-27—100,000—23-8-52.

Home (1947) Department.

Ms. SERIES.

G.O. No.	4682.
Dated	23-11-49

[Despatch Abstract.]

Courts - Criminal - Conferment of Magisterial powers on District Munsifs - Orders passed.

Government of Madras
Abstract

Courts - Criminal - Conferment of Magisterial powers on District Minsifs - Orders passed.

Home Department.

G.O.Ms.No.4682 Dated 23-11-1949.

ORDER:

The government have decided that all District Munsifs in the Province should be invested with the powers of a First class magistrate but after the investiture of powers, only second class cases will be transferred to them during the first four months and thereafter first class cases.

2.District Magistrates are requested to submit proposals to the Government as early as possible for the investiture of magisterial powers on the District Munsifs in accordance with the orders in paragraph 1 above.

sd. . . . . .
Secretary to Government.
19.11.49

To All District Magistrates.
" District and Sessions Judges.
To the Hon'ble Chief Justice, High Court, Madras.
" Board of Revenue.
" Public(Ser) Department.
" Revenue Department.
Copy to Home 'E'

/True Copy/

Superintendent,
Madras Record Office

15/7

GK.6.7.

The file deals with the scheme of training that should be prescribed for magistrates after separation of criminal judiciary from the executive. The Public Department have made certain suggestions in regard to the training to be given to the existing men who will be taken over to the new department and for those the-at who are likely to be appointed in future.

I. Future recruits.

(a) District Munsifs cum subdivisional Munsifs . G.O No.373-S Home dated 25-11-42 prescribes the following trainting for candidates who are recruited for appointment as District Munsifs (direct recruits and those recruited by transfer).

(i)	In Survey	1 month
(ii)	As Revenue Inspector	1 month
(iii)	Magisterial	2 months
(iv)	In execution work	1 month
(v)	In Administration under a District Judge.	1 month

The Public Department suggest that the period of two months allotted for training in execution work and in administration under a District Judge may be reduced to one month as it will not take long to pick up executive work and as in almost all courts this work occupies every day first half an hour or so and that instead magisterial training may be increased from 2 to 3 months. It has also been suggested that trainees may be given 3rd class powers to begin with, that after about a fortnight they may be given second class cases for the rest of the period and that it is not necessary to train them in first class cases.

It is submitted that the present scheme of training District Munsifs was decided in consultation with the High Court which is aware of the nature of the execution work in the mufassal courts. It would therefore seem preferable to consult the High Court before any modification in the scheme is effected.

As regards magisterial work, it would seem that a fortnight is too short a period for one to pick up a knowledge of criminal court procedure. At prosent magisterates are invested with second class powers only after they had exercised third class powers for six months. When the question of prescribing magisterial training for District Munsifs was under consideration, the High court stated that the candidate may be posted for one month as Additional Magistrate with third class powers to a heavy town Sub Magistrate's court and asked to do all the third class work filling in any spare time by sitting with the Sub Magistrate and acquainting himself with the work of the office. It was suggested that in the second month he may be given second class powers and be in sole charge of magisterial work of Deputy Tahsildars' office, the Deputy Tahsildar confining himself to revenue work. It was, however, finally ordered that during the period of 2 months' training candidates should be invested with second class powers and placed in charge of magisterial work of Deputy Tahsildar's office, cases being transferred to them by Sub Divisional Magistrates. It was also ordered that they should attend occasionally the court of Indian Civil Service Divisional Magistrates to learn businesslike habits as magistrates. This training was intended to impart to the candidates a knowledge of criminal Court procedure and was not intended to train them to try cases. For this purpose a longer period of experience as third class and second class Magistrate seems necessary.

It may be mentioned in this connection that when the question of investing official Receivers, who are all law graduates, with magisterial powers was mooted, the Legal Secretary, Mr.(now Hon'ble Mr:Justice) P.V.Balakrishna Ayyar, I.C.S remarked as follows:-

"Official Receivers, as a class have no contact with criminal work and all of them are not likely to make good magistrates. In ~~ma~~ any case, it may be doubted whether it would be expedient to ~~i~~nvest them straight away with the powers of first class magistrates. Officers appointed to I.C.S. I.A.S. etc. are first trained as 3rd class Magistrates and then as 2nd class magistrates before they are invested with 1st class powers. My suggestion would be that a careful selection be made of a few O.Rs. who are primafacie suitable for appointment as 1st class magistrates that they may be trained first as 3rd class magistrates and later as 2nd class magistrates. It is only after they have given satisfaction at these stages that they should be invested with first class powers."

These remarks apply with equal force to the ~~furthe~~ future Munsif - magistrates.

The following represents the present position in regard to the investiture of magisterial powers:-

Under section 256 of the Government of ~~the~~ India Act, the District Magistrate has to be consulted in the matter of granting magisterial powers or enhanced magisterial powers or to withdraw any magisterial powers. To begin with, the magistrates are invested with third class powers and after they have exercised III class powers for a period of six months, they are invested with second class magisterial powers, except those under sections 164, 167 and 562 Cr. P.C. They are invested with the excepted powers after they had exercised II class powers for six months. First class powers, excluding power to hear appeals under section 407 Cr.P.C. and power to try cases summarily under section 260 Cr. P.C. are granted after the magistrate had excrcised second class powers for a period of six months. Appellate and summary powers ~~for a period of~~ are granted to first class magistrates after they had exercised first class powers for a period of one year and two years respectively. But these were till 30-6-45 reduced ~~of~~ one half. ~~It~~ It will thus be seen that a magistrate is invested with full first class powers only after he has acquired sufficient experience at each state.

In view of the above, it was suggested in the case of O.Rs. that they might be invested with second class powers only after they had exercised third class powers for three months and thereafter they might be treated like other magistrates. The High Court has recommended that O.Rs. may be invested with powers of second class magistrates and after one year with first class powers. It would seem preferable that in the case of O.Rs. as well as District Munsifs who are to be appointed as S.D.M. in due course, magistrerial training should consist of three months as third class magistrate, 9 months ~~fro~~ for second class magistrates and that they may be invested with 1st class powers on appointment as S.D.M.

(b) <u>Second class Magistrates</u>.

The Public Department sugg est that second class magistrates may be given the same training as given to S.D.Ms as many of them would be promoted S.D.Ms. cum District Munisifs in due course. At present, the members of the High Court Service and Judicial Ministerial Service who are selected for ~~app~~ appointment as District Munsifs are given the prescribed training along with direct recruits. The same procedure may be followed in future also, that, is training required for munsif-magistrates may be given to the Sub Magistrates after the inclusion of their names in the list of the candidates selected for such appointment. It does not seem necessary to give all the ~~Sub~~ -

Sub Magistrates the elaborate training prescribed for District Munsifs.

At present no special training is given to those recruited for appointment as Deputy Tahsildars and Sub Magistrates. Many of them learn the court procedure while serving as magisterial clerks. They are appointed as third class magistrates for six months and thereafter are appointed as second class magistrates. As the new recruits will be law graduates there seems to be no objection to the same procedure being followed in their cases subject to the condition that the period as 3rd class magistrate may be reduced by 3 months. If they are later selected for appointment as munsif-magistrates, they may be given the training presecribed for direct recruits, except those that they have already undergone.

(c) District Magistrates. In the case of District Magistrates, the Public (Separation) Department suggest that no special provision is necessary for training them as there will be no direct recruitment to the post and only persons in the combined judicial cadre would come up as District Magistrates. This department may agree.

II Training of existing men.- The Public Department suggest that if the scheme of separation is to be introduced at an earlier date, immediate steps should be taken for the training of

(i) Sub Judges to be promoted as District Magistrates
(ii) District Munsifs to be posted as Sub Divisional Magistrates and
(iii) Direct recruits to be appointed as second class magistrates.

Item (i) above. It has already been suggested that no training is necessary in regard to these. The Public Department have suggested that it would be enough if they are given some written instructions for guidance. It is not clear what instructions are contempleted.

Item (ii) above. The Public Department suggest that the best method of giving training without involving additional cost to Government would be to train them in their existing posts i.e., by asking District Munsifs who have already been trained under the existing scheme would not require further training, but a few cases may be transferred to them as a refresher course. It would seem that the Legal Secretary's remarks in regard to investiture of O.Rs. with magisterial powers would apply to District Munsifs who are not conversant with criminal court work. In the interest of efficiency it would seem necessary that they should be given the same magisterial training as has been proposed for future District Munsifs cum Sub Divisional Magistrates that is, they should be invested with third class powers for three months, second class powers for 9 months before they are invested with first class powers. (District Magistrates to transfer about 20 first and second class cases for trial. They have suggested that the

Item (iii) above. Second class Magistrates -Direct recruits.

The Public Department have suggested that the magisterial training may be given immediately after recruitment, postponing the other parts of the training to a later date so that they may be ready for appointment for second class magistrates three months after the commencement of the training and that District Magistrates may be entrusted with this work. The direct recruitments will apparently be selected by the commission. It is not clear how they will be available immediately As regard trainings the remarks in item (b) on page 2 ante will apply here.

page 4. . . . .

Exeeutive Magistrates. After the separation of functions there will be Exeeutive Magistrates who will be members of the Revenue Department in charge of maintenance of law and order and Judicial Magistrates who will try cases. It is not clear whether any change in the training now given to Revenue Department personnel is contemplated. Executive Magistrates are given the training indicated in ~~sts~~ para 5 ante. The training given is to ensure that they pick up sufficient experience to try different classes of cases. The same standard of training may not be necessary when they will be no longer required to try cases. They members of the Revenue Department are required to be Stationary Sub Magistrates for six months for completion of probation as Deputy Tahsildar, six months' service as Stationary Sub Magistrates is required for appointment as Tahsildar and for inclusion in the list of Deputy Collectors. It would seem that as in future these magistrates will not try cases, it would be sufficient to give them a preliminary training for 3 months as third class magistrates in the judicial magistrate's Court. They may be invested with second class magisterial powers on appointment as Deputy Tahsildars, and with first class powers on appointment as Deputy Collectors. Public (Sepn) Department may consider the question in consultation with the Board of Revenue. Public (General) and Revenue Departments are also concerned with this item.

The file may be returned to Public (Separation) Department.

sd. . . . . .
2-8-1949.

(on page 16) Public (Separation)Department.

This file relates to the question of giving training to the new Magistrates on which final decisions have since been taken by the Cabinet Committee. This file was sent to Home sometime before the previous meeting of the Cabinet Committee for remarks and has come back from Home with their remarks, agreeing with the proposals.

Immediate action is necessary in respect of giving "immediate training" to the District Munsifs with a view to make them available for transfer as Sub-Divisional Magistrates now and then. (Orders of H.M. (E & L) and H.Pr. may be obtained as to

> Whether steps may be taken to give this training forthwith by investing all the District Munsifs in the Province with First Class powers and transferring a few First and Second Class cases to their file for disposal, as agree to by Home and High Court and as decided upon by the Cabinet Committee.

S.B
15-11-49

H.M.(E &L)
H. Pr.

1st class Powers may be invested but for about 4 months only 2nd class cases need be transferred.

K.M
15-11-

P.S.K
17-11-

Plese see the orders in circulation. The case may be transferred to Home for immediate action with reference to 'A' on page 4 ante.

Action may also be taken by Home to ammend the existing rules for the training of District Munsifs in accordance with the decision of Cabinet Committee.

S.B.
17-11-49

Public (Sepn)
U.O.140/49-8
17-11-49

Home Department.

Please see the Public (Separation) department's note on p.6 ante, the orders in circulation and the further notes of Public (Separation) above.

The decision at A above may be communicated to the District Magistrates and they may be requested to submit proposals very urgently for the investiture of Magisterial powers on the District Munsifs.

The draft order submitted is for approval. With reference to B above, action is already being taken separately necessary extracts from this file have been taken and added to that file.

A.S I	A.D.S.	D.S
19-11-49	19-11-49	19-11-49

Hon'ble Minister (E & L) may see whether the draft correctly conveys the intentions of the Government.

O.P.
21-11-49

Hon'ble Minister (E & L).

I have made an alteration in the draft. The transfer of cases is something to be done after investiture by District Magistrates.

K.M.
22-11-49

(Issued as G.O.Ms. 4682 Home dated 23-11-1949)

GK.7.8.

Superintendent,
MADRAS RECORD OFFICE.

15/11